

THIRD DIVISION

G.R. No. 259181 — PEOPLE OF THE PHILIPPINES, *plaintiff-appellee*,
versus NHELMAR MENDIOLA y MARIN, NOEL MENDIOLA y
PONCE, and GLEN RAMOS y AKIATAN, *accused-appellants*.

Promulgated:

August 2, 2023

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CONCURRING OPINION

CAGUIOA, J.:

I concur. The *ponencia* is correct in affirming the conviction of accused-appellants Nhelmar Mendiola y Marin, Noel Mendiola y Ponce (Noel), and Glen Ramos y Akiatan (collectively, accused-appellants) for violation of Section 5, Article II of Republic Act No. (RA) 9165,¹ as amended by RA 10640,² and for violation of Section 11 under the same law for accused-appellant Noel.

I submit this Concurring Opinion to underscore that the procedures laid down under Section 21, Article II of RA 9165, as amended, are not difficult to comply with.

In cases involving violations of RA 9165, the prosecution must prove beyond reasonable doubt not only every element of the crime or offense charged but must likewise establish the identity of the *corpus delicti*, *i.e.*, the seized drugs.³ It is, therefore, the duty of the prosecution to prove that the drugs seized from the accused were the same items presented in court.⁴ As such, the State should establish beyond reasonable doubt the identity of the dangerous drugs by showing that the dangerous drugs offered in court as evidence were the same substances bought during the buy-bust operation.⁵

For this purpose, Section 21(1) of RA 9165, after its amendment, laid down the procedure to be followed in the seizure and custody of the dangerous drugs. The provision requires that the apprehending team shall, among others, conduct a physical inventory of the seized items and to photograph the same (1) in the presence of the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel, (2) with an

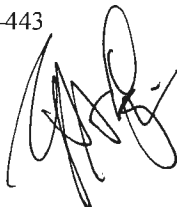
¹ COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, June 7, 2002.

² AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE "COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002," July 15, 2014.

³ *People v. Arbuís*, 836 Phil. 1210, 1215 (2018).

⁴ *People v. Burdeos*, 857 Phil. 90, 97 (2019).

⁵ *People v. Angngao*, 755 Phil. 597, 604 (2015), citing *People v. Pagaduan*, 641 Phil. 432, 442-443 (2010).



elected public official and (3) a representative of the National Prosecution Service or the media who shall be required to sign the copies of the inventory and be given a copy thereof.⁶

What is more, this Court has recognized the following links that should be established in the chain of custody of the confiscated items to preserve the evidentiary value and integrity of the *corpus delicti*: *first*, the seizure and marking, of the illegal drugs recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drugs seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drugs to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.⁷

In the instant case, the prosecution was able to prove the unbroken chain of custody of the seized items.

First, Police Officer 3 Junjun Mataverde (PO3 Mataverde), assisted by two other police officers, effected the arrest immediately after accused-appellants sold to him the self-sealing plastic bag containing white crystalline substance. PO3 Mataverde also recovered from accused-appellant Noel one black bag with one self-sealing plastic bag containing suspected *shabu*. Thereafter, PO3 Mataverde **immediately marked** the seized items he bought from accused-appellants at the place of arrest. PO3 Mataverde likewise **immediately marked** the seized items he recovered from accused-appellant Noel. All the seized items were then **immediately inventoried** and photographed in the presence of accused-appellants, *barangay kagawad*, and a media representative.⁸ As the *ponencia* observed, the insulating witnesses were near the place of apprehension and readily available to witness the marking and inventory.⁹

Second, after the marking and inventory, SPO3 Rolando Aligier, Jr., the assigned investigator, promptly prepared the necessary documents and conducted an investigation of the seized items. Subsequently, PO3 Mataverde turned over the marked and sealed seized items to the Philippine National Police Crime Laboratory for examination.¹⁰

Third, upon receipt of the marked and sealed specimen by PCI Alejandro de Guzman (PCI de Guzman), he immediately conducted physical, chemical, and confirmatory tests to verify the presence of dangerous drugs. After examination, the specimens tested positive for *shabu*. PCI de Guzman placed his own markings and signatures on the marked and sealed seized items. Subsequently, he turned them over to the evidence custodian.¹¹

⁶ RA 10640, Sec. 21(1).

⁷ *People v. Ubungen*, 836 Phil. 888, 897 (2018), citing *People v. Nandi*, 639 Phil. 134, 144–145 (2010).

⁸ *Ponencia*, pp. 4–5; emphasis supplied.

⁹ *Id.* at 9.

¹⁰ *Id.* at 5.

¹¹ *Id.* at 5–6.



Finally, PCI de Guzman personally retrieved the marked and sealed seized items from the evidence custodian, which were brought to and duly identified in open court.¹²

This case helps us see how a strict compliance in the chain of custody rule can be sufficiently complied with from the point of marking, inventory, and photography of the seized items **at the site of arrest in the presence of the insulating witnesses**, to its delivery to the duty investigator and transport to the laboratory for examination until they are admitted and identified in court.

The chain of custody rule exists to safeguard the rights of the individuals and avoid situations where the *corpus delicti* is planted fraudulently and thus wrongly convict someone. Moreover, the chain of custody rule instills public confidence in the criminal justice system, as it demonstrates transparency and accountability in the handling of evidence. By adhering to the prescribed procedures under Section 21 of RA 9165, law enforcement agencies show their commitment to upholding the rule of law and ensuring justice is served. Law enforcement officers must then be reminded of the importance of Section 21, RA 9165, viz.:

Compliance with the chain of custody requirement provided by Section 21, therefore, ensures the integrity of confiscated, seized, and/or surrendered drugs and/or drug paraphernalia in four (4) respects: first, the nature of the substances or items seized; second, the quantity (*e.g.*, weight) of the substances or items seized; third, the relation of the substances or items seized to the incident allegedly causing their seizure; and fourth, the relation of the substances or items seized to the person/s alleged to have been in possession of or peddling them. Compliance with this requirement **forecloses opportunities for planting, contaminating, or tampering of evidence in any manner.**¹³ (Emphasis supplied)

As a final word, I highlight that it is not difficult to comply with the chain of custody rule, as exemplified in this case, where the buy-bust team strictly complied with the requirements under Section 21 of RA 9165, as amended. The buy-bust team here proves that if the ultimate aim of police officers is achieving justice, there is no difficulty on their part in following the chain of custody rule. Still, despite the mandatory procedures of RA 9165, as amended, a number of law enforcement officers unjustifiably deviate from its strict compliance. More and more drugs cases with police officers ignoring what the law mandates are brought before the courts. Law enforcement officers should be aware that the chain of custody rule is not at all difficult to observe and can in fact be strictly followed without violating the rights of individuals. Thus, when the chain of custody is severely compromised, and when it appears that the police officers did not even attempt to comply with such a procedure — these create, in the mind of the Court, the belief that the

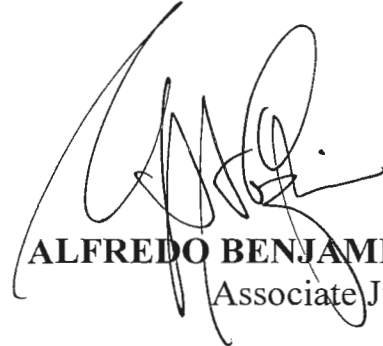
¹² *Id.* at 6.

¹³ *People v. Holgado, et al.*, 741 Phil. 78, 93 (2014).



supposed buy-bust did not really transpire, and was merely concocted by the police officers out of pressure to secure convictions and to circumvent and violate the law.

Based on these premises, I vote to **AFFIRM** the conviction of accused-appellants.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice